

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Christopher Martinez

DEFENDANTS

The IFA Group, Inc. and Joseph McOwen

(b) County of Residence of First Listed Plaintiff Montgomery

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Scott M. Pollins, Pollins Law, 303 W. Lancaster Ave., Ste. 1C, Wayne, PA 19087, 610-896-9909, scott@pollinslaw.com

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Fair Labor Standards ActBrief description of cause:
Unpaid overtime and unpaid wages**VII. REQUESTED IN COMPLAINT:**☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

To be determined

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE
05/22/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 328 Spring Street, Royersford, PA 19468

Address of Defendant: 1990 Route 206, Southampton, NJ 08088

Place of Accident, Incident or Transaction: PA, NJ and DE (states where repo drivers worked)

RELATED CASE, IF ANY:

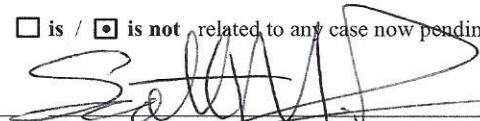
Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/22/2019


Attorney-at-Law / Pro Se Plaintiff

PA76334

Attorney I.D. # (if applicable)

CIVIL: (Place a √ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☒ 11. All other Federal Question Cases

(Please specify): Wage/hour class/collective action

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability – Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): _____

ARBITRATION CERTIFICATION

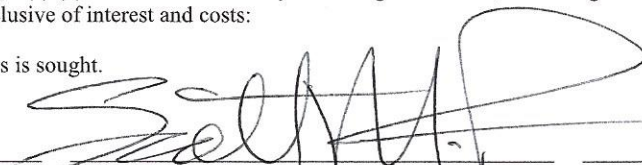
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Scott M. Pollins, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☒ Relief other than monetary damages is sought.

DATE: 05/22/2019


Attorney-at-Law / Pro Se Plaintiff

PA76334

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Christopher Martinez

CIVIL ACTION

v.
*The IFA Group, Inc. and
Joseph McOWen*

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) *Wage/hour class/collective action* ☒ ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>5/22/19</u>	<u>Scatl M. Pollins</u>	<u>Plaintiff Christopher Martinez</u>
Date	Attorney-at-law	Attorney for
<u>610-896-9909</u>	<u>610-896-9910</u>	<u>Scatl M. Pollins law.com</u>
Telephone	FAX Number	E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER MARTINEZ, on behalf :
of himself and others similarly situated :

Plaintiff, :

v. :

THE IFA GROUP, INC. :

and :

JOSEPH McOWEN :

Defendants :

CIVIL ACTION NO.

JURY TRIAL DEMANDED

COMPLAINT

I. INTRODUCTION

1. Plaintiff, Christopher Martinez (Martinez), on behalf of himself and similarly situated current and former employees of Defendant, The IFA Group, Inc. (IFA), is suing IFA and its president and owner Joseph McOwen (McOwen) under the Fair Labor Standards Act (FLSA), 29 U.S.C. §201, *et seq.*, the Pennsylvania Minimum Wage Act (PaMWA), 43 P.S. §333.101, *et seq.*, the Pennsylvania Wage Payment and Collection Law (PaWPCL), 43 P.S. § 260.1, *et seq.*, the New Jersey Wage Payment Law, N.J.S.A. 34:11-4.1, *et seq.* (NJWPL), the New Jersey Wage and Hour Law, N.J.S.A. §34:11-56a, *et seq.* (NJWHL), the Delaware Wage Payment and Collection Act, 19 Del. C. 1953, § 1101, *et seq.* (DeWPCA), and the Delaware Minimum Wage Act, 19 Del. Code Ann. §§ 901, *et seq.*, (DeMWA), and for unjust enrichment. Martinez seeks all relief against IFA and McOwen that he and his similarly situated current and former IFA employees are entitled to, including an order permitting this case to proceed as a collective action under the FLSA and as a class action under the PaMWA, NJWHL, and DeMWA, prompt notice to all potential collective and class action members, unpaid

overtime/wages, liquidated damages, interest, attorney's fees and costs, and such other relief as the Court shall deem proper.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over Martinez's FLSA claims pursuant to 28 U.S.C. §1331 and 29 U.S.C. §216(b). This Court has jurisdiction over Martinez's state law claims pursuant to 28 U.S.C. § 1367(a).

3. This lawsuit properly lies in the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1391(b) because the claims arose in this judicial district and IFA regularly does business in this judicial district.

III. PARTIES

4. Martinez resides in Royersford PA.

5. IFA is New Jersey corporation and a full-service recovery agency whose headquarters are at 1990 Route 206, Southampton, NJ, 08088-3546. IFA provides collateral recovery and transportation services company to its clients and employs a team of nationally accredited professionals skilled in field investigation and skip tracing.

6. IFA is an employer engaged in interstate commerce or in the production of goods for commerce. IFA has gross operating revenues exceeding \$500,000 (exclusive of excise taxes at the retail level which are separately stated). IFA is an employer covered by the FLSA, the PaMWA, the PaWPCL, the NJWPL, the NJWHL, the DeMWA, and the DeWPCA.

7. McOwen is the president and owner of IFA.

8. Upon information and belief, McOwen has and had an active role in overseeing IFA's day-to-day operations, including the setting, payment, and approval of compensation for IFA repossessioners, including Martinez.

IV. FACTUAL BACKGROUND

A. Martinez

9. Martinez worked as a repossessioner for IFA from approximately September 2016 through June 2018 and is an employee covered by the FLSA, the PaMWA, the PaWPCL, the NJWPL, NJWHL, the DeMWA, and the DeWPCA

10. Martinez repossessed automobiles and related property exclusively in Pennsylvania for IFA.

11. IFA paid Martinez a piece-rate for each item of property he repossessed.

12. When he was not repossessing cars for IFA, Martinez also worked at the IFA location in Pottstown (Pottstown lot) Monday through Friday typically between the hours of noon to 3 p.m.

13. McOwen agreed to pay Martinez \$15/hour for every hour he worked at the Pottstown lot.

14. In 2016, IFA paid Martinez about \$45,000. In 2017, IFA paid Martinez about \$41,000. Before firing Martinez in March 2018, IFA paid him about \$9,000.

15. Throughout Martinez's employment at IFA, he regularly worked more than 40 hours each week.

16. In fact, Martinez regularly worked at least 75-80 hours/week.

17. Upon information and belief, IFA did not pay Martinez any compensation, including overtime compensation, for any of the hours he worked in excess of 40 hours

each work week with the exception of being paid overtime for work he performed during the week of September 25, 2016 to October 1, 2016.

18. Upon information and belief, IFA did not pay Martinez for time spent working at the Pottstown lot.

19. Upon information and belief, IFA failed to pay the agreed upon \$15/hour for every hour Martinez at the Pottstown lot.

B. FLSA, PaMWA, PaWPCL, NJWPL, NJWHL, DeWPCA and DeMWA group claims for unpaid overtime

20. Upon information and belief, IFA employed Martinez's similarly situated repossessioners to work exclusively in Pennsylvania, New Jersey, or Delaware, and paid them a piece-rate for each item of property they repossessed.

21. At all relevant times, Martinez and his similarly situated repossessioners were non-exempt employees of IFA within the meaning of the FLSA, PaMWA, PaWPCL, NJWPL, NJWHL, the DeMWA, and the DeWPCA.

22. Upon information and belief, Martinez's similarly situated repossessioners regularly worked at least 75-80 hours/week. Upon information and belief, IFA does not pay and continues to not pay Martinez's similarly situated repossessioners any compensation, including overtime compensation, for any of the hours they worked and work in excess of 40 hours each work week.

23. Upon information and belief, IFA has maintained these improper pay practices for at least the past three years and likely farther in the past than that.

24. IFA willfully violated and is willfully violating the FLSA, the PaMWA, the PaWPCL, the NJWPL, the NJWHL, the DeMWA, and the DeWPCA by failing to pay its non-exempt repossessioners (including Martinez) any compensation, including

overtime compensation, for hours they worked in excess of 40 hours/week and by maintaining firm policies that violate the FLSA, the PaMWA, the PaWPCL, the NJWPL, the NJWHL, the DeMWA, and the DeWPCA.

25. IFA showed reckless disregard for the fact that their failure to pay Martinez and his similarly situated reposseors the appropriate overtime compensation was in violation of the law.

26. IFA's conduct in failing to pay Martinez and his similarly situated reposseors properly was and is not based upon any reasonable interpretation of the law.

27. Martinez brings this lawsuit pursuant to 29 U.S.C. §216(b) as a collective action on behalf of all IFA reposseors who, during any workweek since March 30, 2016, worked more than 40 hours and were not properly paid by IFA.

28. Martinez also brings this lawsuit as a class action pursuant to the PaMWA, the PaWPCL, the NJWPL, the NJWHL, the DeMWA, and the DeWPCA on behalf of all IFA reposseors who, during any workweek since May 22, 2016, worked more than 40 hours and were not properly paid by IFA.

29. Martinez and other members of the collective and class are 'similarly situated' because IFA subjected them all to the common employment practices summarized above and because resolution of the unpaid overtime and compensation claims requires discovery of many common facts, including IFA's compensation, timekeeping and payroll practices.

30. Upon information and belief, more than ten individuals have been employed by IFA, including Martinez, as reposseors in the last three years and have been wrongfully denied compensation and overtime compensation as stated above.

31. Martinez seeks certification of a class that shall include all persons who were employed as repossessioners for the three-year period prior to the date this Complaint was filed until the date of entry of judgment in this case.

32. There are questions of law and fact common to this class, including IFA's liability to Martinez and his potential collective and class mates under the legal theories set forth above.

33. As the named Plaintiff, Martinez's claims are typical of the collective and class because IFA improperly paid all its repossessioners.

34. Martinez will fairly and adequately protect the interests of the collective and class. Through his counsel, he has adequate resources to prosecute this litigation as his counsel will advance all reasonable costs to prosecute this case. Additionally, Martinez's counsel is experienced in wage and hour matters.

35. A collective and class action will provide a fair and efficient method for adjudication of this controversy because:

- a. Common questions of law and fact predominate over questions affecting only individual members.
- b. The prosecution of separate actions by individual members of the class would create a risk of inconsistent adjudications and outcomes and which could substantially impair or impede other members of the proposed collective and class to protect their interests.
- c. The amounts in controversy are such that pooling the claims in a collective and class action is an efficient and less costly method of prosecuting such claims.
- d. The complexity of the issues and the expenses of litigation arising from separate claims of individual class members strongly favor class action as a more efficient and fair method for adjudication of the class claims.

V. CLAIMS

COUNT I – FLSA

36. Paragraphs 1-35 are incorporated by reference as if fully set forth herein.

37. The FLSA requires employers such as IFA to pay employees overtime compensation of ‘not less than one and one-half times’ their regular rate of pay for all hours worked over 40 in a work week. 29 U.S.C. §207(a)(1).

38. IFA violated the FLSA by failing to pay IFA repossessors (including Martinez) any compensation, including time and a half overtime compensation, for all hours worked in excess of 40 hours/week.

39. IFA violated the FLSA by maintaining illegal policies and practices, including failing to pay wages owed, failing to pay overtime based on a 40-hour week period, and improperly documenting how its employees were paid (i.e. failing to indicate the hours above 40 hours each IFA repossessor worked; failing to indicate IFA repossessors received piece-rate pay, not an hourly salary as reflected on the paystubs received from IFA, and failing to pay overtime to IFA repossessors based on their individual piece-rate overtime rate).

WHEREFORE, Martinez seeks the following relief: 1) an order permitting this lawsuit to proceed as a collective action; 2) prompt notice of this lawsuit be given to all potential collective members; 3) unpaid compensation damages; 4) liquidated damages; 5) interest; 6) litigation costs including attorney’s fees and expenses; and 7) such other relief as the Court shall deem proper.

COUNT II – PaMWA

40. Paragraphs 1-35 are incorporated by reference as if fully set forth herein.

41. The PaMWA requires employers such as IFA to pay employees overtime compensation of ‘not less than one and one-half times’ their regular rate of pay for all hours worked over 40 in a work week. 43 P.S. §333.104(c).

42. IFA violated the PaMWA by failing to pay IFA reposseors (including Martinez) any compensation, including time and a half overtime compensation, for all hours worked in excess of 40 hours/week.

43. IFA violated the PaMWA by maintaining illegal policies and practices, including failing to pay wages owed, failing to pay overtime based on a 40-hour week period, and improperly documenting how its employees were paid (i.e. failing to indicate the hours above 40 hours each IFA reposseor worked; failing to indicate IFA reposseors received piece-rate pay, not an hourly salary as reflected on the paystubs received from IFA, and failing to pay overtime to IFA reposseors based on their individual piece-rate overtime rate).

WHEREFORE, Martinez seeks the following relief: 1) an order permitting this lawsuit to proceed as a class action; 2) prompt notice of this lawsuit be given to all potential class members; 3) unpaid compensation damages; 4) interest; 5) litigation costs including attorney’s fees and expenses; and 6) such other relief as the Court shall deem proper.

COUNT III – PaWPCL

44. Paragraphs 1-35 are incorporated by reference as if fully set forth herein.

45. The unpaid compensation IFA and McOwen failed to pay Martinez and other IFA reposseors is considered wages under the PaWPCL.

46. IFA and McOwen violated the PaWPCL by failing to pay IFA reposseors (including Martinez) any compensation, including time and a half overtime compensation, for all hours worked in excess of 40 hours/week.

WHEREFORE, Martinez seeks the following relief: 1) an order permitting this lawsuit to proceed as a class action; 2) prompt notice of this lawsuit be given to all potential class members; 3) unpaid compensation damages; 4) liquidated damages; 5) interest; 6) litigation costs including attorney's fees and expenses; and 7) such other relief as the Court shall deem proper.

COUNT IV – NJWPL

47. Paragraphs 1-35 are incorporated by reference as if fully set forth herein.

48. The NJWPL requires employers such as IFA and McOwen to pay the full amount of wages due its employees and prohibits employers from taking deductions or withholdings from the wages of employees.

49. IFA and McOwen willfully violated the NJWPL by failing to pay the full amount of wages to IFA reposseors (including Martinez) for all hours worked, and by taking unlawful withholdings from IFA reposseor (including Martinez).

WHEREFORE, Martinez seeks the following relief: 1) an order permitting this lawsuit to proceed as a class action; 2) prompt notice of this lawsuit be given to all potential class members; 3) unpaid compensation damages; 4) interest; 5) litigation costs including attorney's fees and expenses; and 6) such other relief as the Court shall deem proper.

COUNT V – NJWHL

50. Paragraphs 1-35 are incorporated by reference as if fully set forth herein.

51. The NJWHL requires employers such as IFA and McOwen to pay employees overtime compensation of ‘not less than one and one-half times’ their regular rate of pay for all hours worked over 40 in a work week.

52. IFA and McOwen willfully violated the NJWHL by failing to pay IFA repossessors compensation, including time and a half overtime compensation, for all hours worked in excess of 40 hours/week.

53. IFA and McOwen violated the NJWHL by maintaining illegal policies and practices, including, improperly issuing paystubs to IFA repossessors (including Martinez) stating they only worked a 40 hours/week.

54. As a result of Defendants’ violations of the NJWHL, IFA repossessors (including Martinez) have suffered damages in amounts to be determined at trial, and are entitled to recovery of such amounts, prejudgment and post judgment interest, and reasonable attorneys’ fees and costs pursuant to the NJWHL.

WHEREFORE, Martinez seeks the following relief: 1) an order permitting this lawsuit to proceed as a class action; 2) prompt notice of this lawsuit be given to all potential class members; 3) unpaid compensation damages; 4) interest; 5) litigation costs including attorney’s fees and expenses; and 6) such other relief as the Court shall deem proper.

COUNT VI – DeMWA

55. Paragraphs 1-35 are incorporated by reference as if fully set forth herein.

56. The DeMWA requires employer to pay all wages due to its employees.

57. IFA and McOwen willfully violated the DeMWA by failing to pay the full amount of wages to IFA repossessioners working in Delaware for all hours worked.

WHEREFORE, Martinez seeks the following relief: 1) an order permitting this lawsuit to proceed as a class action; 2) prompt notice of this lawsuit be given to all potential class members; 3) unpaid compensation damages; 4) interest; 5) litigation costs including attorney's fees and expenses; and 6) such other relief as the Court shall deem proper.

COUNT VII – DeWPCA

58. Paragraphs 1-35 are incorporated by reference as if fully set forth herein.

59. The DeWPCA requires employers such as IFA and McOwen to pay all wages due to its employees, 19 Del. C. 1953, § 1102, and prohibits employers from taking deductions or withholdings from the wages of employees. 19 Del. C. 1953, § 1107.

60. IFA and McOwen willfully violated the DeWPCA by failing to pay the full amount of wages to IFA repossessioners working in Delaware for all hours worked, and by taking unlawful withholdings from IFA repossessioner.

WHEREFORE, Martinez seeks the following relief: 1) an order permitting this lawsuit to proceed as a class action; 2) prompt notice of this lawsuit be given to all potential class members; 3) unpaid compensation damages; 4) liquidated damages; 5) interest; 6) litigation costs including attorney's fees and expenses; and 7) such other relief as the Court shall deem proper.

COUNT VII – UNJUST ENRICHMENT

61. Paragraphs 1-35 are incorporated by reference as if fully set forth herein.

62. At all times relevant to this Complaint, IFA by its policies and practices, benefited from, and increased its profits by failing to pay wages earned and due to Martinez and his similarly situated repossessioners at a rate not less than 1 ½ times the regular rate of pay for all work performed in excess of 40 hours in a work week.

63. IFA accepted and received the benefits of the work performed by Martinez and his similarly situated repossessioners without compensating them for said work. The profits of IFA were unjustly enriched at the expense of Martinez and his similarly situated repossessioners.

WHEREFORE, Martinez seeks judgment for IFA's unjust enrichment in an amount equal to the benefits unjustly retained by IFA, plus interest on these amounts.

Respectfully submitted,

By: SMP2861
Scott M. Pollins (Pa. Atty. Id. No. 76334)
Tashell J. Jenkins (Pa. Atty. Id. No. 323580)
Pollins Law
303 W. Lancaster Avenue, Ste. 1C
Wayne, PA 19087
(610) 896-9909 (phone)
(610) 896-9910 (fax)

scott@pollinslaw.com (email)
tashell@pollinslaw.com (email)

Date: 5/22/2019

Attorneys for Plaintiff,
Christopher Martinez